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Jan. 5

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CONCORD, N.H.

Honorable Sherman Adams  
Governor of New Hampshire  
Concord, New Hampshire

Dear Governor Adams:

I have reviewed the proposed Executive Order dated January 4, relating to the organization of the State Guard Reserve. It is my opinion that you have all necessary authority under the Constitution and laws of this state to sign the proposed order. This may be done by you individually and there is no requirement that the Council participate in this action.

The Constitution provides that the Governor is Commander-in-Chief of the army "and shall have full power by himself, or by any chief commander . . . from time to time, to train, instruct, exercise and govern the militia and navy; and for the special defense and safety of this state, to assemble in martial array . . . the inhabitants . . ." Such powers are "to be exercised agreeably to the rules and regulations of the Constitution, and the laws of the land . . ." N.H. Const., Part Second, Article 5.

The law provides that whenever any part of the New Hampshire National Guard is in the active service of the United States, the Governor may organize and maintain within this state "such military forces as he may deem necessary to defend this state from invasion, rebellion, riot or reasonable apprehension thereof. . ." R. L., c. 144, s. 1. The question of "reasonable apprehension" is for your determination.

Respectfully yours,

Gordon M. Tiffany  
Attorney General

GMD/d

cc. General Brown